

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION

NOTICE OF MOTION NO.5 OF 2007
IN
TESTAMENTARY PETITION NO.554 OF 2006

Prakash S. Aswani	Petitioner
V/s.	
Mahesh K. Aidasani	Respondent
And	
Union Bank of India	Third Party

Mr.N.N. Vaishnawa i/b N.N. Vaishnawa & Co. for the
Petitioner.

Mr.Makhija i/b Ms.Preeti Shah for the Respondent.

Mr.K.D. Shukla for the Third Party.

CORAM : S.J. VAZIFDAR, J.
DATED : 13TH JULY, 2007.

P.C. :

1. Mr.Makhija, the learned counsel appearing on behalf of the Respondent fairly states that the Respondent has no intention of and shall not dispose of, alienate, encumber, part with possession of and create third party rights, title and/or interest in respect of any of the assets of the deceased. The statement is accepted. The Respondent has also filed an affidavit disclosing the manner in which the assets have been dealt with by the Respondent.

2. He also states that the Respondent has no objection to a private receiver being appointed. The Petitioner has however opposed the same. Moreover, he agreed to bear the costs, whatever there may be, unconditionally.

3. Mr.Makhija further states that the Respondent has no objection to the following order. In the circumstances, the Notice of Motion is disposed of in the following manner :-

a). All the securities/FDRs./Bonds etc. shall on maturity be deposited in S.B. A/C No.12825 of the Union Bank of India, Khar Branch. Mr.Shukla, the learned counsel for the Union Bank of India - third party, confirms that the said account has been revived. Thereupon the said amount shall be transferred to this Court. Upon the amounts being received by this Court, the Registrar (O.S.) / Prothonotary & Senior Master shall invest the same in fixed deposit of a nationalized bank initially for a period of one year and thereafter for like periods of one year each.

b). The Petitioner and the Respondent shall deposit any moneys that they have realized from out of the estate of the deceased in this Court within eight weeks from today. The Respondent shall also deposit all the securities, deposits and FDRs and other assets of the deceased in this Court within eight weeks from today.

c). The above statements and undertakings are accepted.

d). The Court Receiver, High Court, Bombay is appointed as Receiver in respect of the flat referred to at Exhibit-B to the Petition. The Court Receiver shall invite bids for appointing the agent in respect of the said flat on usual terms and conditions including as to security and royalty.

e). The parties shall be at liberty to bid for the agency.

4. The Notice of Motion is accordingly disposed of.